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Chapter 2. FHWA and GDOT Responsibilities

2.1 FHWA - Title 23 of the United States Code (USC)

The Federal Highway Administration's (FHWA's) responsibility for administering the Federal-aid Highway Program, under Title 23, USC, is outlined in the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 with several other legislative transportation acts that all culminate in the Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012. These laws establish the respective roles and responsibilities of the GDOT and the FHWA in providing stewardship of Federal-aid Highway Program activities under Title 23 and other associated laws. FHWA retains overall responsibility for all aspects of their Federal-aid programs and this understanding does not preclude FHWA's access to and review of Federal-aid projects at any time and does not replace any provisions of Title 23, USC.

2.2 FHWA Role in the LG Administered Project Process

The FHWA Georgia Division oversight of local administered projects will be conducted by the FHWA Georgia Division's Transportation Engineer for each District. The FHWA Georgia Division will also have an individual with local administered project collateral duties to oversee the program aspects.

2.3 The Georgia Code of Public Transportation and GDOT

The Georgia Code of Public Transportation, Official Code of Georgia, Title 32, created the GDOT and defines its powers and responsibilities. Paragraph 32-2-2 (a) (7) more specifically describes GDOT's authority to accept Federal Aid.

Procedures to meet the Title 23 Policies and Objectives are addressed in the State Code, directives or manuals.

When a unit of LG notifies GDOT of its intent to become the implementing agency of a construction project in which GDOT participates through oversight of Federal funds, the GDOT, on behalf of FHWA, will determine a LG's qualifications for compliance with all requirements of Federal and State laws and regulations before proceeding with obligating Federal funds. Title 23 U.S.C. does not recognize local entities as direct recipients of Federal funds therefore GDOT is not relieved of any Federal oversight responsibilities by granting work to be completed by a LG. GDOT must determine sub-recipients to have adequate program delivery and sufficient accounting controls to properly manage Federal funds.

2.4 Local Government Qualification Certification

The GDOT LAP Coordinator with the assistance of the Local Administered Project Certification Committee (LAPCC) will be responsible for evaluating the LG submittal of a Local Administered Project (LAP) Certification Application. The GDOT District Planning Programming Engineer (DPPE) will conduct an interview with the LG administrators after all required LAP certification training and documents have been completed, submitted and approved by the LAP Coordinator. All four (4) training courses (LAP, PDP, Right-of-Way and Title VI) and associated documentation must be

approved by the LAP Coordinator before the interview with GDOT DPPE and the submittal of the LAP Certification Application (See Chapter 3.5).

The GDOT DPPE will consult with designated SME's on the LAPCC and other GDOT District units to evaluate the LG qualifications and past experience, if applicable, with administering Federal funded projects. For LG's that have limited experience in managing a Federal funded project, the GDOT DPPE may recommend certification with direct GDOT supervision with all project approvals being the responsibility of the LG Project Manager. For LGs that have past local let experience with administering Federal funded projects with demonstrated technical expertise necessary for the review and approval of various phases or functional areas associated with project development certifying that they are in conformance with applicable State and Federal law, the GDOT DPPE will provide this information as a part of the recommendations for those areas permitted for review and approval for LG Qualification Certification. LG qualifications include part or all of the following that will be used to determine the level of local let supervision by the GDOT DPPE:

1. LG has a full time public employee to be in responsible charge for the Federal project and not a consultant.
2. LG is equipped to undertake work.
3. LG is capable to satisfactorily complete the work.
4. LG has Federal project experience.
5. LG has design and construction disciplines or intends to acquire GDOT prequalified design or right of way consultants to provide those disciplines.
6. LG has the capability to undertake environmental studies or intends to acquire a GDOT prequalified consultant
7. LG has proven or can expect to prove Federal-aid fiscal accountability and stewardship.

After the interview process, the GDOT DPPE will submit the LG evaluation with a recommendation to the LAP Coordinator. The LAP Coordinator and the SME's on the LAPCC will meet to review the evaluation and recommendation from the GDOT DPPE of the LAP Certification Application. The LAPCC will either approve or disapprove (deny) the local agency's LAP Certification Application.

A letter from the Office of the Chief Engineer will be sent the LG if the LAP Certification Application is approved. A letter from LAP Coordinator will notify the LG of its denial of certification with a signed copy of the LG Qualification Certification Agreement attached (See Appendix A). A LG denied certification will be provided in writing outlining the reasons for that action. A LG may reapply for certification after addressing deficiencies stated in the denial letter. After LG certification the Program Control Administrator will review and approve each local administered project (LAP) to assure previous certified qualifications have not changed.

Quality Assurance Reviews will be conducted by the LAP Coordinator annually for a selected number of projects to determine the LGs selected provided project performances that met or do not meet GDOT LAP Manual requirements. A LG may lose its certification if reorganization of the government agency occurs or problems are discovered in the Quality Assurance Review, or during GDOT or FHWA inspections, audits or project close out review.

2.5 GDOT Retains Approval Authority for Specific Project Activities

The GDOT retains approval authority for the following LG administered project activities.

1. NEPA documents
2. Environmental technical studies
3. Design standards and design exceptions
4. Environmental Certification
5. Engineering plans
6. Right of Way Certification
7. Utility Certification
8. Sole Source Justification Approval coordinated with FHWA
9. DBE Goals
10. Owner Force Account work
11. Rejection of bids
12. Labor compliance enforcement
13. Project cost eligibility
14. Contract modifications
15. Federal-aid accrued progress payments and final payment
16. Materials Certificate
17. Project final inspection and final acceptance

FHWA may retain approval authority of certain items in accordance with the Stewardship and Oversight Agreement.

2.6 GDOT Reimbursement for Direct Project Costs

The LG administered projects are a significant annual portion of the Federal-aid program for which FHWA and GDOT are responsible. GDOT must assure that each sub-recipient will meet the requirement for delivering the project and an accounting control process capable to manage Federal funds. GDOT Project Manager and other GDOT staff will incur considerable cost related to local administered projects. For PE oversight funding, please refer to Attachment “C” titled *“Preliminary Engineering (PE) Oversight Funding Structure for Non-GDOT Sponsored Projects (Guidance for MPO's, TMA's, Project Managers and Project Delivery Staff)”* in the PFA. The LG will be responsible for providing all project non-Federal cash matching funds for each local administered project. As part of all Federal-aid projects, the GDOT staff directly bills their payroll and other eligible expenses to Federal-aid participation. It is the responsibility of the LG to provide local non-Federal (cash only) matching funds to GDOT for authorizing the usual and customary engineering funds for GDOT direct project engineering and supervisory activities. Cash only local matching funds are required for direct project GDOT engineering or supervisory cost seeking Federal reimbursements, since property and other services containing non-cash matching values may not be used. Preliminary engineering, construction engineering and construction supervision activities by GDOT staff generally cost between 5% and 10% of the total project cost. This local cash participation for GDOT engineering service is required regardless if other phase activities on the same project are to use a non-cash match value.

If the LG proposes to not use cash to meet the non-Federal matching requirements for any Preliminary Engineering, Right-of-Way or Construction funds on a project, a written methodology for determining the non-cash value for each proposed phase shall be provided to the GDOT for review and approval. Prior approval of the valuation methodology must be obtained from GDOT before proceeding with any step or project activity. All LG non-cash Federal matching will be limited to the approved methodology value being directly performed for or within the approved final project termini. If the LG requests a change in its non-Federal match and/or non-cash participation, methodology for all phases of funding shall be resubmitted to the GDOT for review and approval. Submittal for consideration to change one phase will not be acceptable.

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